

**ORD 02-20**

**CHAPTER 253**

**VEHICLES, ALL-TERRAIN AND UTILITY TERRAIN**

**To amend Chapter 253 to update and allow the use of All Terrain and Utility Terrain vehicles on designated Village of Albany Streets.**

**§253-1. State all-terrain and utility terrain vehicle laws adopted.**

The provisions with respect to all-terrain and utility terrain vehicles in the following enumerated subsections of Wis. Stats. § 23.33, and any future amendments or revisions thereto, are hereby adopted by reference and made part of this chapter as if fully set forth herein. Any acts required to be performed by the following statutory subsections or which are prohibited by such statutory subsections are required to be performed by this chapter or are prohibited by this chapter:

Sec. 23.33 (1) Definitions

Sec. 23.33(1m) Utility terrain vehicle program

Sec. 23.33(2) Registration

Sec. 23.33(2h) Alterations and falsifications prohibited

Sec. 23.33(2j) Nonresident trail passes

Sec. 23.33(2k) Weekend exemption

Sec. 23.33(2m) Rental of all-terrain vehicles and utility terrain vehicles

Sec. 23.33(3) Rules of operation

Sec. 23.33(3c) Operation with firearms or crossbows.

Sec. 23.33(3e) Original seating

Sec. 23.33(3g) Use of headgear

Sec. 23.33(4) Operation on or near highway

Sec. 23.33(4c) Intoxicated operation of an all-terrain vehicle or utility terrain vehicle

Sec. 23.33(4g) Preliminary breath screening test

Sec. 23.33(4j) Applicability of intoxicated operation of an all-terrain vehicle or utility terrain vehicle law

Sec. 23.33(4L) Implied consent

Sec. 23.33(4p) Chemical tests

Sec. 23.33(4t) Report arrest to department

- Sec. 23.33(4x) Officer's action after arrest for operating an all-terrain vehicle or utility terrain vehicle while under influence of intoxicant.
- Sec. 23.33(5) Age restrictions
- Sec. 23.33(6) Equipment requirements
- Sec. 23.33(6m) Noise limits
- Sec. 23.33(6r) Passenger restrictions
- Sec. 23.33(7) Accidents
- Sec. 23.33(8) Routes and Trails
- Sec. 23.33(9) Administration, Enforcement, Aids
- Sec. 23.33(10) Liability of Landowners
- Sec. 23.33(11) Local Ordinances
- Sec. 23.33(11m) Exceptions
- Sec. 23.33(12) Enforcement
- Sec. 23.33(13) Penalties

**§ 253-2. Speed limits.**

All speeds posted on any village streets allowed to be driven on by ATV/UTV must be followed.

**§ 253-3. Violations and penalties.**

Violation of this chapter shall be punishable by a forfeiture and enforced according to the provisions of §§ 223-10 and 223-11 of the Code of the Village of Albany, Wisconsin as may be amended from time to time, which are adopted by reference and made part of this chapter as if fully set forth herein.

**§ 253-4. Unauthorized operation of motor vehicles on public or private property.**

A. Purpose.

- (1) The unauthorized off-road operation of motor vehicles has resulted in serious damage to public and private lands, including damage or destruction of vegetation, animal life and improvement to the lands.
- (2) The unauthorized off-road operation of motor vehicles has resulted in the permanent scarring of land and an increase in both erosion and air pollution.
- (3) The unauthorized off-road operation of motor vehicles has resulted in collisions and near collisions threatening the life and safety of the operators of such vehicles as well as of other persons.
- (4) The unauthorized off-road operation of motor vehicles has resulted in a loss of the privacy, quietude and serenity to which the owners and users of land are rightfully entitled.

B. Definitions. For purposes of this section, the terms below shall be defined as follows:

MOTOR VEHICLES – Any vehicle which is self-propelled, and shall include but not be limited to automobiles, trucks, jeeps, vans, motorcycles, motorbikes, all-terrain vehicles, utility terrain vehicles, mopeds, snowmobiles, dune buggies and tractors. Only vehicles capable of following all street traffic laws are allowed on streets. A vehicle which would otherwise be defined as a motor vehicle under this section shall not be so defined while:

- (1) It is being operated solely for the purpose of construction or maintenance of an improvement to land or solely for access to construction or maintenance sites, provided that such operation is by persons having legitimate business on such lands or sites.
- (2) It is being operated by or at the direction of public employees or utility company employees as part of their employment duties.
- (3) It is being operated by the holder of an easement or right of access on or over the land on which operation is occurring or the holder's employees or agents.

OFF ROAD – Any location which:

- (1) Is not a paved or maintained public street or alley;
- (2) Is not used or maintained by the owner or lessee of land as a driveway, parking lot or other way for motor vehicles; or
- (3) Is a private trail for use only by the owner or his permittees for recreational or other vehicular use. Off-road shall not include any creek bed, riverbed or lake; provided, however, that this subsection shall not apply to snowmobiles or other vehicles being operated on the ice covering such creek bed, riverbed, or lake.

OPERATION – The physical manipulation or activation of any of the controls of a motor vehicle necessary to put it in motion.

UNAUTHORIZED – Without the express prior consent of the owner, lessee, manager or other person authorized to give consent by the owner or lessee of land. Authorization shall not be implied from a failure to post private or public land.

C. Unauthorized off-road operation prohibited.

- (1) The unauthorized off-road operation of a motor vehicle is prohibited.
- (2) Except for authorized maintenance vehicles and snowmobiles, all-terrain vehicles, and utility terrain vehicles operating in authorized areas pursuant to Chapter 223, Snowmobiles, §223-9, "Snowmobile routes and trails designated", and Chapter 253, Vehicles, All-Terrain and Utility Terrain, including §253-5, "ATV and UTV operation and designated routes", it shall be unlawful to operate any bike, go-kart, all-terrain vehicle, utility terrain vehicle or any other motor-driven craft or vehicle principally manufactured for off-highway use on parks, sidewalks, bikeways, or on any public lands or private lands. The operator shall at all times have the consent of the owner, in writing, before operation of such licensed or unlicensed craft or vehicle on private lands.

D. Prohibited use of snowmobile trails. Except as provided in the definition of "motor vehicle" in Subsection B above, no person shall operate any motor vehicle other than a snowmobile on a snowmobile trail.

**§ 253-5. ATV and UTV operation and designated routes.** The operation of all-terrain vehicles and utility terrain vehicles on designated streets within the Village of Albany is allowed only as follows:

A. Rules of Operation.

- (1) No person shall drive an all-terrain vehicle or utility terrain vehicle at a speed in excess of the posted limit as indicated by official signs posted on a designated route.
- (2) No person who is under 16 years of age may operate an all-terrain vehicle or utility terrain vehicle on a roadway. An operator must be at least 16 years of age with a valid driver's license. All all-terrain vehicle and utility terrain vehicle operators under the age of 18 shall wear approved head protection. Passengers under the age of 16 must also wear head protection while riding in the vehicle.
- (3) The operator of an all-terrain vehicle or utility terrain vehicle shall drive at all times in single file on the right side of the designated route and shall yield to vulnerable highway users, as defined by Wis. Stat. § 340.01(74p), as may be amended or renumbered from time to time. On paved roadways, all-terrain vehicles and utility terrain vehicles shall be operated on the paved portion of the roadway and not on the gravel shoulder or ditch.
- (4) Applicability of State Traffic Regulations. No person shall operate an all-terrain vehicle or utility terrain vehicle upon any street, highway or alley within the Village of Albany in violation of the State traffic regulation provisions as incorporated by reference in §260-1 of the Village of Albany, Wisconsin Code of Ordinances.
- (5) Unattended Vehicles. No person shall leave or allow an all-terrain vehicle or utility terrain vehicle owned or operated by him or her to remain unattended on any public highway or public property while the motor is running or with the starting key left in the ignition.
- (6) Operation on sidewalks prohibited. No person shall operate an all-terrain or utility terrain vehicle upon any sidewalk, pedestrian way or upon the area between the sidewalk and the curb line of any street in the village, except for the purpose of crossing to obtain immediate access to an authorized area of operation.
- (7) All all-terrain vehicle and utility terrain vehicle operators shall stop at each roadway or highway to be crossed and yield the right-of-way to all motor vehicles approaching on each such roadway or highway.
- (8) All all-terrain vehicles and utility terrain vehicles operated on the ATV/UTV routes shall be equipped with a working white-lighted headlamp and a red-lighted tail lamp. The headlamp and tail lamp shall be lighted at all times while operating on the ATV/UTV routes.
- (9) Vehicles not equipped with turn signals must use hand signals.
- (10) All utility terrain vehicles are required to be equipped with a functioning seat belt for the operator and all passengers. All all-terrain vehicles and utility terrain vehicles are required to be equipped with a functioning muffler to prevent excessive or unusual noise and with a functioning spark arrester of a type approved by the United States Forest Service.

B. Routes Designated.

- (1) All streets within the Corporate boundaries of the Village of Albany and which have a posted speed limit of 35 mph or less are designated as all-terrain vehicle and utility terrain

vehicle routes (“ATV & UTV Routes”) which may be used by the operators of all-terrain vehicles and by the operators of utility terrain vehicles, **except** for the following Village streets which will be marked with signs:

- a. North Mechanic Street (State Highway 59)
- b. West Main Street to its end (State Highway 59 and west)
- c. Vine Street (State Highway 59)
- d. South Water Street in its entirety
- e. East Nichols Street in its entirety

(2) The crossing, by an all-terrain vehicle or utility terrain vehicle, of a street which is listed in subsection (1), above is authorized only if the crossing is done in the most direct manner in order to access the closest authorized ATV & UTV Route.

(3) Notwithstanding subsection (1), above, the crossing of the bridge over the Sugar River located on Main Street by an all-terrain vehicle or a utility terrain vehicle is authorized only if: the crossing is done in the most direct manner practicable; the crossing is made at a place where no obstruction prevents a quick and safe crossing; and the operator stops the vehicle prior to the crossing and yields the right-of-way to other vehicles, pedestrians, electric scooters, and electric personal assistive mobility devices using the roadway and only if the crossing is done in the most direct manner in order to access the closest authorized ATV & UTV Route.

**ENFORCEMENT:** This ordinance shall be enforced by any law enforcement officer authorized to enforce the laws of the State of Wisconsin.

**SEVERABILITY:** The provisions of this ordinance shall be deemed severable and it is expressly declared that the Village of Albany would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions of this ordinance may be declared invalid. If any provision of this ordinance is held to be invalid, the remainder of this ordinance and the application of such other provisions of this ordinance shall not be deemed to be affected.

**OTHER REGULATIONS:** If any provision of this ordinance is in conflict with or is addressed by another Village ordinance, Wisconsin State statute or regulation, the most restrictive ordinance, statute or regulation shall apply.

This Ordinance shall take effect upon passage, the erecting of the proper signage pursuant to Wis. Stats. § 23.33(8)(e)2., and posting as provided by law.

APPROVED by the Village Board of the Village of Albany this 14<sup>th</sup> day of September 2020.

Dated this 14<sup>th</sup> day of September, 2020.

Passed this 14<sup>th</sup> day of September, 2020.

Posted this 15<sup>th</sup> day of September, 2020.

SIGNED:

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KIM A. BLUMER, Village President

\_\_\_\_\_  
DATE

ATTEST: I, Laurie K. Keepers, clerk in and for the Village of Albany do hereby attest that the above and foregoing is a true and correct copy of the Ordinance adopted by the Village Board of the Village of Albany on September 14, 2020.

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LAURIE K. KEEPERS, Clerk

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DATE